

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**MARC GRANO, as personal representative of  
The WRONGFUL DEATH ESTATE OF  
JONATHAN ANDREW GARCIA, and a Next  
Friend to J.O.G., A.S.R., An.J.G., and Ar.J.G.**

**Plaintiff,**

**v.**

**Case No. 1:20-cv-00147-PJK-KK**

**STATE OF NEW MEXICO,  
GREGG MARCANTEL, New Mexico Secretary of Corrections,  
DAVID JABLONSKI, New Mexico Secretary of Corrections,  
CLARENCE OLIVAS, Deputy Warden of Penitentiary of New Mexico  
BRIAN LUCERO, Corrections Officer,  
FNU MARTINEZ, Corrections Officer,  
CAPTAIN FNU BACA, Corrections Officer,  
SGT FNU WELLS, Corrections Officer  
JOHN DOES 1 through 5, employees, staff, agents of  
Penitentiary of New Mexico,**

**Defendants.**

**ORDER APPOINTING GUARDIAN *AD LITEM***

THIS MATTER is before the Court upon the Parties' Joint Motion for Appointment of Guardian *Ad Litem* filed November 23, 2022 [Doc 165]. The Motion requests that Raynard Struck be appointed Guardian *Ad Litem* for Decedent Jonathan Andrew Garcia's surviving minor children, J.O.G., A.S.R., An.J.G. and Ar.J.G., who are the beneficiaries of Decedent Garcia's wrongful death estate. Having reviewed the record, and noting that the Parties join in the Motion, the Court finds the Motion to be well taken and it is therefore GRANTED.

**IT IS THEREFORE ORDERED** the Motion is **GRANTED** as follows:

1. The Court finds the appointment of a Guardian *Ad Litem* is necessary to assist the Court in its review of this matter, and to ensure that any resolution of this matter adequately consider the interests of minor children J.O.G., A.S.R., An.J.G. and Ar.J.G.;
2. For the purpose of this proceeding, Raynard Struck, an attorney at law and member of the New Mexico Bar, is not a lawyer for any of the Parties, but is hereby appointed solely as

an extension of the Court to assist in ensuring that the rights of J.O.G., A.S.R., An.J.G. and Ar.J.G. are fully protected;

3. Having hereby been appointed as a temporary Guardian *Ad Litem* to act on behalf of the minor children J.O.G., A.S.R., An.J.G. and Ar.J.G., Raynard Struck shall:
  - a. Have independent status from all other parties herein and should be able to review any documents, including, but not limited to, pleadings, depositions, medical and psychological records, insurance policies and other pertinent materials related, directly or indirectly, to the interests of J.O.G., A.S.R., An.J.G. and Ar.J.G. with respect to the recommendation concerning the settlement of their claims or claims brought on their behalf;
  - b. Conduct an independent investigation and evaluation of the overall status and needs of J.O.G., A.S.R., An.J.G. and Ar.J.G., and such independent investigation and evaluation is to be as an arm of the Court and should be conducted without the interference of any party herein;
  - c. Evaluate the Parties' settlement that they have negotiated and then, on behalf of J.O.G., A.S.R., An.J.G. and Ar.J.G. as an arm of the Court, report to the Court as to the fairness and reasonableness of the proposed settlement; and
  - d. Be paid a reasonable fee by Defendants pursuant to the terms of the settlement agreement by the Parties.

4. The Guardian *Ad Litem*'s duties and obligations in this case are owed to the Court and not the minor children. There are strong public policy reasons to grant immunity to the Guardian *Ad Litem* in this case, who is acting as an "Arm of the Court" and is performing an essential role in this Court's administration of justice. All immunities and privileges available to the Guardian *Ad Litem*, as articulated by the Tenth Circuit in *Dahl v. Charles F. Dahl, M.D., P.C. Defined Ben. Pension Tr.*, 744 F.3d 623, 630 (10th Cir. 2014) shall be extended to the Guardian *Ad Litem* in this matter.

**IT IS FURTHER ORDERED** that Raynard Struck shall submit a sealed copy of his report and recommendations to the Court and counsel for the Parties. After the Court receives this report and recommendation, it will schedule a fairness hearing.

**IT IS SO ORDERED.**

/s/ Paul Kelly, Jr.  
UNITED STATES CIRCUIT JUDGE  
Sitting by Designation

Parties' Proposed Order Modified by the Court 11/29/2022

Respectfully submitted,

JOSEPH M. ROMERO LAW, LLC

/s/ Joseph M. Romero

JOSEPH M. ROMERO

P.O. Box 27579

Albuquerque, NM 87125

Tel: (505) 433-1642

E-mail: joe@romerolawnm.com

Attorneys for Plaintiff

APPROVED BY:

GARCIA LAW GROUP, LLC

Approved via email on 11/23/2022

RODNEY L. GABALDON

BRYAN C. GARCIA

Attorneys for Defendants

6739 Academy Road NE, Suite 200

Albuquerque, NM 87109

(505) 629-1576 / (505) 652-1337 (fax)

rgabaldon@garcialawgroupllc.com

bgarcia@garcialawgroupllc.com

MEDRANO STRUCK, P.C.

Approved via email on 11/23/2022

Raynard Struck, J.D., LL.M

Guardian *Ad Litem*

500 Tijeras Avenue NW

Albuquerque, NM 87102

(505) 217-2200

struck@medranostrucklaw.com